

**ADOPTION OF AN AMENDMENT TO CHAPTER 112
(ZONING) OF THE 1976 CODE OF THE COUNTY OF FAIRFAX, VIRGINIA**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium, Lobby Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia, on Monday, June 26, 2006, the Board after having first given notice of its intention so to do, in the manner prescribed by law, adopted an amendment to Chapter 112 (Zoning) of the 1976 Code of the County of Fairfax, Virginia, said amendment so adopted being in the words and figures following, to-wit:

**BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF FAIRFAX
COUNTY, VIRGINIA:**

Amend Chapter 112 (Zoning Ordinance), as follows:

Amend Article 2, General Regulations, as follows:

- Amend Part 4, Qualifying Lot and Yard Regulations, as follows:

- Amend Sect. 2-414, Yard Regulations for Lots Abutting Certain Principal Arterial Highways and Railroad Trucks, by revising Par. 1 to read as follows:

1. Notwithstanding any other provision of this Ordinance, the following minimum distances shall be maintained between all principal buildings and right(s)-of-way of interstate highways, the Dulles International Airport Access Highway and the combined Dulles International Airport Access Highway and Dulles Toll Road:

- A. All residential buildings - 200 feet.
- B. All commercial and industrial buildings - 75 feet.

- Amend Sect. 2-421, Cluster Subdivisions, by revising Paragraphs 1, 4, 5, 7, 8 and 9 to read as follows:

1. Cluster subdivisions may be permitted in the R-2 District with a minimum district size of two (2.0) acres or greater and may be permitted in the R-3 and R-4 Districts which have a minimum district size of three and one-half (3.5) acres or greater, with approval by the Director pursuant to Chapter 101 of The Code, The Subdivision Ordinance.
4. After July 1, 2004, the Board may approve a proffered rezoning to the R-2 District or a proffered rezoning to a R-3 or R-4 District which has a minimum district size of three and one-half (3.5) acres or greater, for the development of a cluster subdivision without bonus density when the application is for a rezoning to a residential district that has a higher permitted maximum density than the permitted maximum density of the existing zoning of the application property. In conjunction with Board approval of such a proffered rezoning, all minimum district size, lot area, lot width and open space requirements of the district and all applicable cluster subdivision provisions of Chapter 101 of The Code, The Subdivision Ordinance, shall be met without modification or waiver. However, the provisions of Sect. 18-204 shall apply to such an approved proffered rezoning.
5. After July 1, 2004, the Board may approve a proffered rezoning to the R-C, R-E or R-1 District or a proffered rezoning to a R-3 or R-4 District which has a minimum district size of two (2) acres or greater but less than three and one-half (3.5) acres, for the development of a cluster subdivision without bonus density when the application is for a rezoning to a residential district that has a higher permitted maximum density than the permitted

maximum density of the existing zoning of the application property.

7. Cluster subdivisions in the R-C, R-E, R-1, R-2, R-3 and R-4 Districts that were approved by proffered rezoning by the Board prior to July 1, 2004, shall continue to be subject to the proffered rezoning approval. Amendments to such proffered rezonings for cluster subdivisions in the R-C, R-E, R-1, R-2, R-3 and R-4 Districts may be filed and considered in accordance with the provisions of Sect. 18-204, except that no amendment shall be filed or approved that permits the cluster subdivision to be enlarged, expanded, increased in density or relocated. Minor modifications to such subdivisions may be permitted pursuant to Sect. 18-204.
8. Special exceptions for cluster subdivisions in the R-C, R-E, R-1, R-2, R-3 and R-4 Districts that were approved by the Board prior to July 1, 2004 and which were established, shall remain valid and the cluster subdivision shall continue to be subject to the special exception approval and any development conditions imposed by such approval. Amendments to such special exceptions for cluster subdivisions in the R-C, R-E, R-1, R-2, R-3 and R-4 Districts, may be filed and considered in accordance with the provisions of Sections 9-014 and 9-615. Minor modifications to such subdivisions may be permitted pursuant to Sect. 9-004.
9. Cluster subdivisions in the R-E, R-1, R-2, R-3 and R-4 Districts that were approved administratively by the Director prior to October 20, 1987, or that are subject to the grandfathering provisions adopted pursuant to Zoning Ordinance Amendment ZO 87-150, may continue pursuant to any conditions of such approval. Any modification to such subdivision may be approved by the Director, pursuant to the requirements of this Section and Chapter 101 of The Code, The Subdivision Ordinance.

- **Amend Part 5, Qualifying Use, Structure Regulations, as follows:**

- **Amend Sect. 2-512, Limitations on the Keeping of Animals, by revising Paragraphs 2 and 8 to read as follows:**

2. The keeping of dogs, except a kennel as permitted by the provisions of Part 6 of Article 8, shall be allowed as an accessory use on any lot in accordance with the following:
 - A. The number of dogs permitted shall be in accordance with the following schedule, except that, in determining the number of dogs allowed, only those dogs six (6) months or older in age shall be counted.

<i>Number of Dogs</i>	<i>Minimum Lot Size</i>
1 to 2	No requirement
3 to 4	12,500 square feet
5 to 6	20,000 square feet
7 or more	25,000 square feet plus 5,000 square feet for each additional dog above 7

B. Notwithstanding the above, dogs in numbers greater than those set forth above may be kept on a lot when it can be demonstrated that:

- (1) Such dogs were kept on the lot prior to October 11, 1977 and have continued to be kept on such lot; or
- (2) Three (3) dogs were kept on a lot of less than 12,500 square feet in size, or five (5) dogs were kept on a lot of 12,500 to 19,999 square feet in size, prior to February 25, 1985.

The provisions of this Paragraph B shall apply only to existing dogs when evidence is submitted which specifically identifies each animal and documents that such animal was present on the lot in accordance with the applicable time frames set forth above.

Nothing in this Ordinance shall be construed to determine the type of license required for dogs under the provisions of Chapter 41.1 of The Code.

8. The keeping of wild, exotic, or vicious animals shall not be allowed except as may be permitted by Chapter 41.1 of The Code.

- **Amend Sect. 2-514, Limitations on Mobile and Land Based Telecommunications Facilities, by revising the introductory paragraph of Par. 2C(4) to read as follows:**

2. Antennas mounted on existing or replacement utility distribution and transmission poles (poles) and light/camera standards (standards), with related unmanned equipment cabinets and/or structures, shall be permitted in accordance with the following and may exceed the maximum building height limitations, subject to the following paragraphs:

B. The following antenna types shall be permitted subject to Paragraphs 2C through 2I below:

- (1) Omnidirectional/whip antennas, not exceeding eight and one-half (8 ½) feet in height or three (3) inches in diameter.
- (2) Directional or panel antennas, not exceeding six (6) feet in height or two (2) feet in width.

- (3) Cylinder type antennas, not exceeding six (6) feet in height or twelve (12) inches in diameter.
- (4) Dish antennas, not exceeding two (2) feet in diameter.

C. The antennas listed in Par. 2B above shall be permitted as follows:

- (4) In the rights-of-way for interstates highways, the Dulles International Airport Access Highway or the combined Dulles International Airport Access Highway and Dulles Toll Road, the following shall apply:

- (a) When located on the ground, each provider shall be limited to a related equipment cabinet or structure which shall not exceed 12 feet in height or a total of 500 square feet in gross floor area and shall be located a minimum of 20 feet from the street right-of-way line. Notwithstanding the fence/wall height limitations of Sect. 10-104, ground-mounted related equipment cabinets or structures shall be screened by a solid fence, wall or berm eight (8) feet in height, an evergreen hedge with an ultimate height of eight (8) feet and a planted height of forty-eight (48) inches, or an eight (8) foot tall fence, wall, berm and/or landscaping combination. If a new ground-mounted equipment cabinet or structure is added to an existing fenced or screened enclosure that contains telecommunications equipment structures, the screening requirement for the new equipment cabinet or structure may be satisfied with the existing screening, provided that such screening meets the requirements listed above.

When located on a pole or standard, a maximum of one (1) related equipment cabinet or structure shall be permitted that does not exceed five (5) feet in height or twenty (20) cubic feet in volume.

- (b) The height of a replacement pole or standard, including antennas, shall not exceed 100 feet. However, if the height of the existing pole or standard exceeds 100 feet, the replacement pole or standard, including antennas, shall be no more than 15 feet higher. The diameter of a replacement pole or standard shall not exceed forty-two (42) inches.

- **Amend Sect. 2-516, Accessory Electrically-Powered Regional Rail Transit Facilities, to read as follows:**

Accessory electrically-powered regional rail transit facilities shall be permitted on any lot in any zoning district when such use is in accordance with the limitations listed below. Additionally, such use shall be subject to the requirements of Sect. 15.2-2232 of the Code of Virginia.

1. Such facilities shall be designed in a manner that minimizes adverse impacts on adjacent properties to the greatest extent practical through the use of landscaping, screening, design and architectural techniques.
2. All buildings containing mechanical or electrical equipment associated with any accessory electrically-powered regional rail transit facility shall be fully enclosed and shall have similar architectural treatment on all sides.

Freestanding traction power substations shall not exceed 8300 square feet of gross floor area and a maximum height of 30 feet. Freestanding tie breaker stations shall not exceed 850 square feet of gross floor area and a maximum height of 20 feet. Freestanding communication rooms shall not exceed 350 square feet of gross floor area and a maximum height of 20 feet. Freestanding train control rooms shall not exceed 700 square feet of gross floor area and a maximum height of 20 feet. The cumulative gross floor area of all equipment structures on a lot shall not exceed 9350 square feet. If such equipment facilities are co-located in a structure containing a traction power substation, the maximum height of the structure shall not exceed thirty (30) feet. If such facilities are co-located in a structure that does not contain a traction power substation, the maximum height of the structure shall not exceed twenty (20) feet.

There shall be no outside storage associated with any mechanical or electrical equipment structure. However, this provision shall not preclude the use of temporary generators for emergency purposes, or other equipment that by its nature requires an outside location.

3. Accessory electrically-powered regional rail transit facilities shall not have to comply with the lot size requirements, bulk regulations or open space requirements of the district in which located. In addition, such facilities shall not have to comply with the transitional screening provisions of Article 13.
4. Except for accessory electrically-powered regional rail transit facilities operated by WMATA, all accessory electrically-powered regional rail transit facilities shall be subject to the provisions of Article 17, Site Plans. Accessory electrically-powered regional rail transit facilities operated by WMATA shall be established in conformance with the provisions of the agreement between WMATA and the County.

Notwithstanding the above, accessory electrically-powered regional rail transit facilities located in the right-of-way of the Dulles International Airport Access Highway, the combined Dulles International Airport Access Highway and Dulles Toll Road or an interstate highway shall not be subject to Par. 2 above.

- **Amend Sect. 2-517, Electrically-Powered Regional Rail Transit Facilities, to read as follows:**

1. Electrically-powered regional rail transit facilities located in the right-of-way of the Dulles International Airport Access Highway, the combined Dulles International Airport Access Highway and Dulles Toll Road or an interstate highway shall be permitted in any zoning district. Except for electrically-powered regional rail transit facilities operated by WMATA, all electrically-powered regional rail transit facilities shall be subject to the provisions of Article 17, Site Plans. Electrically-powered regional rail transit facilities operated by WMATA shall be established in conformance with the provisions of the agreement between WMATA and the County.
2. Electrically-powered regional rail transit facilities not located in the right-of-way of the Dulles International Airport Access Highway, the combined Dulles International Airport Access Highway and Dulles Toll Road or an interstate highway shall be subject to Part 4 of Article 9.

- **Amend Part 9, Floodplain Regulations, Sect. 2-903, Permitted Uses, by revising Par. 10 to read as follows:**

Except as provided in Par. 10 below for cluster subdivisions, the following uses and topographic improvements, as qualified, may be permitted in a floodplain upon a determination by the Director that such use is permitted in the zoning district in which located, and that the use is in accordance with the provisions of this Part and the standards and criteria set forth in the Public Facilities Manual. Any such approval by the Director shall be in writing and shall specify such conditions deemed necessary to ensure that the proposed construction and resultant use conform to the provisions of this Part.

Any use, including associated fill, permitted in the zoning district in which located, which does not meet the qualifications set forth below as determined by the Director, may be permitted upon the approval of a special exception by the Board.

10. For cluster subdivisions in the R-2 District and cluster subdivisions in the R-3 and R-4 Districts which have a minimum district size of three and one-half (3.5) acres or greater, only the following uses and improvements may be permitted by the Director, provided that the encroachments for such uses and improvements are the minimum necessary and are provided in a manner that minimizes disturbance to the floodplain to the greatest practical extent:
 - A. Driveways that do not exceed 5000 square feet in area and will not require major fill.

- B. Extension of or connection to existing public and private utilities.
- C. Trails depicted on the comprehensive plan trails map and/or trails connecting to trails depicted on the comprehensive plan trails map.
- D. Channel improvements and erosion control measures performed by or at the direction of the County or as may be required by County ordinances.
- E. Regional stormwater management facilities included in the regional stormwater management plan.
- F. Roadway floodplain crossings, as qualified by Par. 6A above.

Amend Article 3, Residential District Regulations, as follows:

- Amend the R-3 Residential District, Three Dwelling Units/Acre as follows:

- Amend Sect. 3-301, Purpose and Intent, to read as follows:

The R-3 District is established to provide for single family detached dwellings at densities set forth in Sect. 308 below; to provide for affordable dwelling unit developments; to allow other selected uses which are compatible with the low density residential character of the district; and otherwise to implement the stated purpose and intent of this Ordinance.

- Amend Sect. 3-305, Use Limitations, by revising Par. 3 to read as follows:

- 3. Cluster subdivisions may be permitted in accordance with the provisions of Sect. 9-615 when the cluster subdivision has a minimum district size of two (2) acres or greater but less than three and one-half (3.5) acres, and with the provisions of Sect. 2-421 when the cluster subdivision has a minimum district size of three and one-half (3.5) acres or greater.

- Amend Sect. 3-306, Lot Size Requirements, by revising Par. 1 to read as follows:

- 1. Minimum district size for cluster subdivisions:
 - A. Cluster subdivisions containing a minimum district size of two (2) acres or greater but less than three and one-half (3.5) acres shall be subject to special exception approval.
 - B. Cluster subdivisions containing a minimum district size of three and one-half acres (3.5) acres or greater shall be subject to approval by the Director.

- **Amend Sect. 3-308, Maximum Density, by revising Par. 2 to read as follows:**

2. Cluster subdivisions:

- A. Three (3) dwelling units per acre for cluster subdivisions approved by the Director in accordance with Sect. 2-421, or that are the result of proffered rezoning from a district that allows a permitted maximum density of less than three (3) dwelling units per acre.
- B. Three dwelling units per acre plus one (1) bonus dwelling unit for cluster subdivisions containing a minimum district size of two (2) acres or greater but less than three and one-half (3.5) acres and approved by special exception.

- **Amend the R-4 Residential District, Four Dwelling Units/Acre as follows:**

- **Amend Sect. 3-401, Purpose and Intent, to read as follows:**

The R-4 District is established to provide for single family detached dwellings at densities set forth in Sect. 408 below; to provide for affordable dwelling unit developments; to allow other selected uses which are compatible with the low density residential character of the district; and otherwise to implement the stated purpose and intent of this Ordinance.

- **Amend Sect. 3-405, Use Limitations, by revising Par. 3 to read as follows:**

- 3. Cluster subdivisions may be permitted in accordance with the provisions of Sect. 9-615 when the cluster subdivision has a minimum district size of two (2) acres or greater but less than three and one-half (3.5) acres, and with the provisions of Sect. 2-421 when the cluster subdivision has a minimum district size of three and one-half (3.5) acres or greater.

- **Amend Sect. 3-406, Lot Size Requirements, by revising Par. 1 to read as follows:**

1. Minimum district size for cluster subdivisions:

- A. Cluster subdivisions containing a minimum district size of two (2) acres or greater but less than three and one-half (3.5) acres shall be subject to special exception approval.
- B. Cluster subdivisions containing a minimum district size of three and one-half acres (3.5) acres or greater shall be subject to approval by the Director.

- **Amend Sect. 3-408, Maximum Density, by revising Par. 2 to read as follows:**

2. Cluster subdivisions:

- A. Four (4) dwelling units per acre for cluster subdivisions approved by the Director in accordance with Sect. 2-421, or that are the result of proffered rezoning from a district that allows a permitted maximum density of less than four (4) dwelling units per acre;
- B. Four dwelling units per acre plus one (1) bonus dwelling unit for cluster subdivisions containing a minimum district size of two (2) acres or greater but less than three and one-half (3.5) acres and approved by special exception.

Amend Article 6, Planned Development District Regulations, Part 1, PDH Planned Development Housing District, Sect. 6-106, Use Limitations, by revising Par. 10 to read as follows:

10. Zoological parks shall be subject to the following:

- A. All such uses shall be subject to and operated in compliance with all applicable Federal, State and County regulations.
- B. The Director of the Department of Animal Control shall review the operation of the zoological park on a quarterly basis and shall have the right to conduct unannounced inspections of the facility during daylight hours.
- C. The keeping of all animals including wild or exotic animals as defined in Chapter 41.1 of The Code may be permitted with the approval of the Director of the Department of Animal Control, upon a determination that the animal does not pose a risk to public health, safety and welfare and that there will be adequate feed and water, adequate shelter, adequate space in the primary enclosure for the particular type of animal depending upon its age, size and weight and adequate veterinary care.

Amend Article 8, Special Permits, as follows:

- **Amend Part 0, General Provisions, Sect. 8-004, Status of Special Permit Uses, by revising Par. 4A(2) to read as follows:**

- 4. Minor modifications to an approved special permit may be permitted when it is determined by the Zoning Administrator that such are in substantial conformance with the approved special permit and that such: are in response to issues of topography, drainage, underground utilities, structural safety, layout, design, vehicular circulation, or requirements of the Virginia Department of Transportation

or Fairfax County; or are accessory uses; or are accessory structures or minor building additions as permitted by Par 4A(7) or 4B(7) below.

- A. For approved special permits for all uses, other than churches, chapels, temples, synagogues and other such places of worship (hereinafter places of worship) and places of worship with a child care center, nursery school or private school of general or special education, the modifications shall, in no event:
- (1) Permit a more intensive use which shall include but not be limited to an expansion of the hours of operation or an increase in number of seats, students or employees from that approved pursuant to the special permit; or
 - (2) Result in an increased parking requirement, except for any additional parking which may be required for any building additions or modifications permitted under Par. 4A(7) below; or
 - (3) Permit uses other than those approved pursuant to the special permit, except that accessory uses in accordance with this paragraph may be permitted; or
 - (4) Reduce the effectiveness of approved transitional screening, buffering, landscaping or open space; or
 - (5) Permit changes to bulk, mass, orientation or location which adversely impact the relationship of the development or part thereof to adjacent property; or
 - (6) Result in an increase in the amount of clearing and/or grading for a stormwater management facility, including any clearing and/or grading associated with spillways, inlets, outfall pipes or maintenance roads, that reduces non-stormwater management open space, tree save and/or landscaping area on the lot; or
 - (7) Include the addition of any building or additions to buildings except that accessory structures clearly subordinate to the use, and minor additions to buildings may be permitted, provided that the sum total of all such structures or additions shall not exceed the following:
 - (a) five (5) percent of the approved gross floor area or 500 square feet of gross floor area, whichever is less, when the total gross floor area shown on the approved special permit plat is less than 50,000 square feet; or

- (b) one (1) percent of the approved gross floor area when the total gross floor area shown on the approved special permit plat is 50,000 square feet or more; or
 - (c) 250 square feet of gross floor area of accessory storage structure uses when the total gross floor area shown on the approved special permit plat is 10,000 square feet or less; and
 - (d) the maximum permitted FAR for the zoning district in which located.
- **Amend Part 6, Group 6 Outdoor Recreation Uses, Sect. 8-612, Additional Standards for Zoological Parks, by revising Par. 5 to read as follows:**
 - 5. The keeping of all animals including wild or exotic animals as defined in Chapter 41.1 of the Code may be permitted with the approval of the Animal Services Division of the Police Department, upon a determination that the animal does not pose a risk to public health, safety and welfare and that there will be adequate feed and water, adequate shelter, adequate space in the primary enclosure for the particular type of animal depending upon its age, size and weight and adequate veterinary care.
- **Amend Part 8, Group 8 Temporary Uses, Sect. 8-804, Standards and Time Limits for Carnivals and Other Uses Set Forth in Par. 1 of Sect. 801 Above, by revising Par. 7 to read as follows:**
 - 7. The Zoning Administrator shall notify the Animal Services Division of the Police Department upon receipt of an application for a temporary special permit involving the display or exhibition of animals. In addition to the requirements of this Ordinance, the owners and/or operators of any carnival, circus, side show, dog and pony show, trained animal show, traveling animal exhibition, menagerie or any other show, exhibition or performance similar thereto, shall procure a County license in accordance with the provisions of Chapter 25 of The Code, and a permit in accordance with the provisions of Chapter 41.1 of The Code.

Amend Article 9, Special Exceptions, as follows:

- **Amend Part 0, General Provisions, Sect. 9-004, Status of Special Exception Uses, by revising Par. 4A(2) to read as follows:**
 - 4. Minor modifications to an approved special exception may be permitted when it is determined by the Zoning Administrator that such are in substantial conformance with the approved special exception and that such: are in response to issues of topography, drainage, underground utilities, structural safety, layout, design, vehicular circulation, or requirements of the Virginia Department of Transportation

or Fairfax County; or are accessory uses; or are accessory structures or minor building additions as permitted by Par. 4A(7) or 4B(7) below.

- A. For approved special exceptions for all uses, other than churches, chapels, temples, synagogues and other such places of worship (hereinafter places of worship) and places of worship with a child care center, nursery school or private school of general or special education the modifications shall, in no event:
- (1) Change the amount of land area or permit a more intensive use which shall include but not be limited to an expansion of the hours of operation or an increase in number of seats, dwellings, students or employees from that approved pursuant to the special exception; or
 - (2) Result in an increased parking requirement, except for any additional parking which may be required for any building additions or modifications permitted under Par. 4A(7) below; or
 - (3) Permit uses other than those approved pursuant to the special exception, except that accessory uses in accordance with this paragraph may be permitted; or
 - (4) Reduce the effectiveness of approved transitional screening, buffering, landscaping or open space; or
 - (5) Permit changes to bulk, mass, orientation or location which adversely impact the relationship of the development or part thereof to adjacent property; or
 - (6) Result in an increase in the amount of clearing and/or grading for a stormwater management facility, including any clearing and/or grading associated with spillways, inlets, outfall pipes or maintenance roads, that reduces non-stormwater management open space, tree save and/or landscaping area on the lot; or
 - (7) Include the addition of any building or additions to buildings except that accessory structures clearly subordinate to the use, and minor additions to buildings may be permitted, provided that the sum total of all such structures or additions shall not exceed the following:
 - (a) five (5) percent of the approved gross floor area or 500 square feet of gross floor area, whichever is less, when the total gross floor area shown on the approved special exception plat is less than 50,000 square feet; or

- (b) one (1) percent of the approved gross floor area when the total gross floor area shown on the approved special exception plat is 50,000 square feet or more; or
- (c) 250 square feet of gross floor area of accessory storage structure uses when the total gross floor area shown on the approved special exception plat is 10,000 square feet or less; and
- (d) the maximum permitted FAR for the zoning district in which located; or
- (e) the maximum density permitted by the approved special exception.

- **Amend Part 4, Category 4 Transportation Facilities, Sect. 9-401, Category 4 Special Exception Uses, by revising the concluding paragraph to read as follows:**

1. Airports.
2. Bus or railroad stations.
3. Heliports.
4. Helistops.
5. (Deleted by Amendment #05-374, Adopted July 25, 2005, Effective July 26, 2005)
6. Electrically-powered regional rail transit facilities.
7. WMATA non-rail transit facilities.

When located in the right-of-way of the Dulles International Airport Access Highway, the combined Dulles International Airport Access Highway and Dulles Toll Road or an interstate highway, electrically-powered regional rail transit facilities shall be subject to the provisions of Sect. 2-517.

- **Amend Part 6, Category 6 Miscellaneous Provisions Requiring Board of Supervisors' Approval, as follows:**

- **Amend Sect. 9-612, Provisions for Waiving Open Space Requirements, by revising the introductory paragraph to read as follows:**

Except for cluster subdivisions in the R-2 District and cluster subdivisions in the R-3 and R-4 Districts which have a minimum district size of three and one-half (3.5) acres or greater, the Board may approve, either in conjunction with the approval of appropriate proffered conditions or as a special exception, the waiving of the open

space requirement presented for a given zoning district and/or the open space requirement for cluster subdivisions in the R-C, R-E and R-1 Districts and cluster subdivisions in the R-3 and R-4 Districts which have a minimum district size of two (2) acres or greater but less than three and one-half (3.5) acres, set forth in Par. 4 of Sect. 2-309, but only in accordance with the following provisions:

- **Amend Sect. 9-615, Provisions for a Cluster Subdivision, by revising the introductory paragraph to read as follows:**

The Board may approve, either in conjunction with the approval of a rezoning or as a special exception, a cluster subdivision in an R-C, R-E or R-1 District or a cluster subdivision in a R-3 or R-4 District which has a minimum district size of two (2) acres or greater but less than three and one-half (3.5) acres, but only in accordance with the provisions of this section. Special exceptions for cluster subdivisions in the R-2 District and cluster subdivisions in the R-3 or R-4 Districts which have a minimum district size of three and one-half (3.5) acres or greater, that were approved by the Board prior to July 1, 2004, shall remain valid and the cluster subdivisions shall continue pursuant to such special exception approval and any development conditions imposed by such approval. Amendments to such special exceptions for cluster subdivisions in the R-2 District and cluster subdivisions in the R-3 or R-4 Districts which have a minimum district size of three and one-half (3.5) acres or greater, shall be pursued in accordance with the provisions of Sect. 9-014 and the following:

Amend Article 10, Accessory Uses, Accessory Service Uses and Home Occupations, Part 1, Accessory Uses and Structures, Sect. 10-104, Location Regulations, by revising Paragraphs 9A and 12C to read as follows:

9. The following regulations shall apply to the location of structures for the housing of animals:
 - A. Barns and other structures used in connection with agriculture, to include structures for the keeping, confining or sheltering of any poultry or livestock, except horses and ponies, shall be located no closer than 100 feet to any lot line. Additional provisions governing the location of hog pens are set forth in Chapter 41.1 of The Code.
12. The following regulations shall apply to the location of all freestanding structures or uses except those specifically set forth in other paragraphs of this Section:
 - C. No accessory structure or use, except a statue, basketball standard or flagpole, shall be located (a) in any minimum required front yard on any lot or (b) in any front yard on any lot containing 36,000 square feet or less. When located in a front yard, basketball standards shall not be located closer than fifteen (15) feet to a front lot line and twelve (12) feet to a side lot line, and shall not be used between the hours of 8:00 PM and 8:00 AM.

Amend Article 13, Landscaping and Screening, Part 3, Transitional Screening and Barriers, Sect. 13-304, Transitional Screening and Barrier Modifications and Waivers, by revising Par. 11 to read as follows:

Transitional screening and barriers may be waived or modified by the Director in any of the following circumstances. The Director may attach conditions to any waiver or modification which would assure that the results of the waiver or modification would be in accordance with the purpose and intent of this Part.

11. Transitional screening and barriers may be waived or modified where the subject property abuts a railroad or interstate highway right-of-way, except the right-of-way of the Dulles International Airport Access Highway or the combined Dulles International Airport Access Highway and Dulles Toll Road.

Amend Article 16, Development Plans, as follows:

- **Amend Part 2, Procedures for Review and Approval of a PRC District, Sect. 16-203, PRC Plan Approval, by revising Par. 13A(2) to read as follows:**

13. Minor modifications to an approved rezoning and development plan may be permitted in a PRC plan when it is determined by the Zoning Administrator that such are in substantial conformance with the approved rezoning and development plan and that such: are in response to issues of topography, drainage, underground utilities, structural safety, layout, design, vehicular circulation, or requirements of the Virginia Department of Transportation or Fairfax County; or are accessory uses; or are accessory structures or minor building additions as permitted by Par. 13A(7) or 13B(7) below.
 - A. For approved rezonings and development plans for all uses, other than churches, chapels, temples, synagogues and other such places of worship (hereinafter places of worship) and places of worship with a child care center, nursery school or private school of general or special education, the modifications shall, in no event:
 - (1) Permit a more intensive use than that approved pursuant to the approved rezoning and development plan; or
 - (2) Result in an increased parking requirement, except for any additional parking which may be required for any building additions or modifications permitted under Par. 13A(7) below; or
 - (3) Permit additional uses other than those approved pursuant to the approved rezoning and development plan, except that accessory uses in accordance with this paragraph may be permitted; or

- (4) Reduce the effectiveness of approved transitional screening, buffering, landscaping or open space; or
- (5) Permit changes to bulk, mass, orientation or location which adversely impact the relationship of the development or part thereof to adjacent property; or
- (6) Result in an increase in the amount of clearing and/or grading for a stormwater management facility, including any clearing and/or grading associated with spillways, inlets, outfall pipes or maintenance roads, that reduces non-stormwater management open space, tree save and/or landscaping area on the lot; or
- (7) Include the addition of any building or additions to buildings except that accessory structures clearly subordinate to the use and minor additions to buildings may be permitted, provided that the sum total of all such structures or additions shall not exceed the following:
 - (a) five (5) percent of the approved gross floor area or 500 square feet of gross floor area, whichever is less, when the total gross floor area shown on the approved development plan is less than 50,000 square feet; or
 - (b) one (1) percent of the approved gross floor area when the total gross floor area shown on the approved development plan is 50,000 square feet or more; or
 - (c) 250 square feet of gross floor area of accessory storage structure uses when the total gross floor area shown on the approved development plan is 10,000 square feet or less; and
 - (d) the maximum permitted density; or
 - (e) the maximum permitted FAR.

- **Amend Part 4, Procedures for Review and Approval of All P Districts Except the PRC District, Sect. 16-403, Site Plan/Subdivision Plat Preparation, Building Permit, Residential Use Permit and Non-Residential Use Permit, by revising Par. 4A(2) to read as follows:**

Approval of a final development plan shall be a prerequisite and shall constitute authority for the applicant to prepare a site plan or a subdivision plat. Approval of site plans or subdivision plats and the issuance of Building Permits, Residential and/or Non-Residential Use Permits shall be in substantial conformance with the final development plan, and in accordance with the provisions of this Ordinance and Chapter 101 of The Code, The Subdivision Ordinance, and the following:

4. Minor modifications to an approved final development plan may be permitted when it is determined by the Zoning Administrator that such are in substantial conformance with the approved final development plan and that such: are in response to issues of topography, drainage, underground utilities, structural safety, layout, design, vehicular circulation, or requirements of the Virginia Department of Transportation or Fairfax County; or are accessory uses; or are accessory structures or minor building additions as permitted by Par. 4A(7) or 4(B)7 below.
 - A. For approved final development plans for all uses, other than churches, chapels, temples, synagogues and other such places of worship (hereinafter places of worship) and places of worship with a child care center, nursery school or private school of general or special education, the modifications shall, in no event:
 - (1) Permit a more intensive use than that approved pursuant to the approved conceptual development plan, final development plan or any applicable proffers or development conditions; or
 - (2) Result in an increased parking requirement, except for any additional parking which may be required for any building additions or modifications permitted under Par. 4A(7) below; or
 - (3) Permit additional uses other than those approved pursuant to the approved conceptual development plan, final development plan, or any applicable proffers or development conditions, except that accessory uses in accordance with this paragraph may be permitted; or
 - (4) Reduce the effectiveness of approved transitional screening, buffering, landscaping or open space; or
 - (5) Permit changes to bulk, mass, orientation or location which adversely impact the relationship of the development or part thereof to adjacent property; or
 - (6) Result in an increase in the amount of clearing and/or grading for a stormwater management facility, including any clearing and/or grading associated with spillways, inlets, outfall pipes or maintenance roads, that reduces non-stormwater management open space, tree save and/or landscaping area on the lot; or
 - (7) Include the addition of any building or additions to buildings except that accessory structures clearly subordinate to the use and minor additions to buildings may be permitted, provided that the sum total of all such structures or additions shall not exceed the following:
 - (a) five (5) percent of the approved gross floor area or 500 square feet of gross floor area, whichever is less, when the total gross floor

area shown on the approved final development plan is less than 50,000 square feet; or

- (b) one (1) percent of the approved gross floor area when the total gross floor area shown on the approved final development plan is 50,000 square feet or more; or
- (c) 250 square feet of gross floor area of accessory storage structure uses when the total gross floor area shown on the approved final development plan is 10,000 square feet or less; and
- (d) the land area designated for commercial uses in the PDH District or the maximum FAR provisions in the PDC and PRM Districts; or
- (e) the maximum permitted density.

Amend Article 18, Administration, Amendments, Violations and Penalties, Part 2, Amendments, Sect. 18-204, Proffered Condition Regulations, by revising Par. 5A(2) to read as follows:

Proffered conditions shall include written statements, development plans, profiles, elevations, and/or other demonstrative materials proffered in accordance with the provisions of Par. 4 of Sect. 203 above and approved by the Board in conjunction with the approval of an amendment to the Zoning Map. Proffered conditions shall be subject to the following procedures and regulations:

- 5. Notwithstanding the provisions of Part 4 of Article 1, minor modifications to the proffered conditions may be permitted when it is determined by the Zoning Administrator that such are in substantial conformance with the proffered conditions and that such: are in response to issues of topography, drainage, underground utilities, structural safety, layout, design, vehicular circulation, or requirements of the Virginia Department of Transportation or Fairfax County; or are accessory uses; or are accessory structures or minor building additions as permitted by Par 5A(7) or 5B(7) below.
 - A. For proffered rezonings for all uses, other than churches, chapels, temples, synagogues and other such places of worship (hereinafter places of worship) or places of worship with a child care center, nursery school or private school of general or special education, the modifications shall, in no event:
 - (1) Change the amount of land area or permit a more intensive use from that approved pursuant to the proffered conditions; or
 - (2) Result in an increased parking requirement, except for any additional parking which may be required for any building additions or modifications permitted under Par. 5A(7) below; or

- (3) Permit uses other than those approved pursuant to the proffered conditions, except that accessory uses in accordance with this paragraph may be permitted; or
- (4) Reduce the effectiveness of approved transitional screening, buffering, landscaping or open space; or
- (5) Permit changes to bulk, mass, orientation or location which adversely impact the relationship of the development or part thereof to adjacent property; or
- (6) Result in an increase in the amount of clearing and/or grading for a stormwater management facility, including any clearing and/or grading associated with spillways, inlets, outfall pipes or maintenance roads, that reduces non-stormwater management open space, tree save and/or landscaping area on the lot; or
- (7) Include the addition of any building or additions to buildings except that accessory structures clearly subordinate to the use and minor additions to buildings may be permitted, provided that the sum total of all such structures or additions shall not exceed the following:
 - (a) five (5) percent of the approved gross floor area or 500 square feet of gross floor area, whichever is less, when the total gross floor area shown on the proffered development plan is less than 50,000 square feet; or
 - (b) one (1) percent of the approved gross floor area when the total gross floor area shown on the proffered development plan is 50,000 square feet or more; or
 - (c) 250 square feet of gross floor area of accessory storage structure uses when the total gross floor area shown on the proffered development plan is 10,000 square feet or less; and
 - (d) the maximum permitted density; or
 - (e) the maximum permitted FAR for the zoning district in which located.

Amend Article 20, Ordinance Structure, Interpretation and Definitions, Part 3, Definitions, by revising the definitions of Mass Transit Facility and Related Street Improvement and Zoological Park to read as follows:

MASS TRANSIT FACILITY AND RELATED STREET IMPROVEMENT: For the purpose of Sect. 2-308, Maximum Density, a mass transit facility shall be deemed an electrically-powered regional rail transit facility, an accessory electrically-powered regional rail transit facility or a

WMATA non-rail transit facility, and a street improvement related thereto shall be deemed to be the right-of-way for a proposed street, or the additional right-of-way needed for the realignment or the improvement of an existing street. Such street, whether new or improved, is designed for the primary purpose of either:

1. Improving access to electrically-powered regional rail transit facilities, accessory electrically-powered regional rail transit facilities and WMATA non-rail transit facilities, in which event no such proposed street or improvement to an existing street shall be located outside the service area for the facility, such service area being those designated by WMATA or other electrically-powered regional rail transit facility authority; or
2. Providing exclusive lanes, preferential lanes, or peak period bus priority lanes for WMATA non-rail transit facility utilization; or
3. Improvements needed to permit the safe operation of buses, including provision of busbays, bus turnouts, and right-of-way for locating bus shelters. The requirements for safe operation of buses shall be determined by WMATA.

ZOOLOGICAL PARK: A facility in which livestock, farm animals and other animals, such as buffalo, bison, llamas and alpacas, are kept for public exhibition, viewing and contact, regardless of compensation, and which may include related uses and activities such as gift shops, picnic areas and recreational activities. In addition, the keeping of all animals including wild or exotic animals as defined in Chapter 41.1 of The Code may be permitted with the approval of the Director of Animal Control in accordance with the provisions of Sect. 6-106 or Sect. 8-612. For the purpose of this Ordinance, zoological park shall not include retail pet stores, kennels, riding or boarding stables, horse or dog shows, horse races, and such activities as State and County fairs, livestock shows, rodeos, field trials, coursing events, or any other fairs or exhibitions intended to advance agricultural arts and sciences.

Amend Appendix 7, Commercial Revitalization Districts, Part 4, Richmond Highway Commercial Revitalization District, Sect. A7-407, Bulk Regulations, by revising Par. 1 to read as follows:

1. Maximum building height: As specified in the underlying zoning district regulations, except that for land zoned C-6 or C-8, a maximum height of fifty (50) feet shall be allowed by right, except as may be qualified by the provisions of the Woodlawn Historic Overlay District. In addition, where an increase in the maximum building height is allowed in the underlying zoning district regulations by special exception, such may be approved by the Board in accordance with the provisions of Sect. 9-622.

This amendment shall become effective on June 27, 2006 at 12:01 a.m.

GIVEN under my hand this 26th day of June, 2006.

NANCY VEHR
Clerk to the Board of Supervisors